

**ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
MINUTES OF MEETING HELD MAY 19, 2004
PHOENIX, ARIZONA**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on May 19, 2004, at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

Members Present:

- Chairman Jim Garcia
- Chief Joe Vernier
- Sergeant Gary Eisenga
- Sheriff Gary Butler
- Ms. Lisa Flores
- Assistant Director Rod Covey, representing Director Dennis Garrett
- Deputy Tamatha Villar
- Dr. Michael Polakowski
- Chief Jerry Sheridan

Members Absent:

- Sheriff Clarence Dupnik
- Director Dora Schriro
- Ms. Laura Reckart

Staff in Attendance:

- Tom Hammarstrom
- Robert Forry
- Lynn Larson
- Steve Jacobs
- Ted Brandon
- Curt Milam
- Gary Maschner
- Marie Dryer
- Sgt. Crista Capp
- Sgt. Jim DeLung
- Sgt. Kimberly Johnson
- Lynn Pirkle
- Carol Muskus
- Lois Sherlock

Counsel for Board in Attendance:

Diana Stabler, Assistant A.G.

Guest Roster:

Robert Oberosler, Yuma County Sheriff's Office
Gary Burch, Yuma County Sheriff's Office
Netty Etsitty, Navajo Nation Police Department
Rich Kush, AZRCPI/Tempe P.D.
Ed Cibbarrelli, Central Arizona College
Sam Weiss, CARLOTA
Scott Mascher, NARTA/YCSO
Andy Bacon, NARTA/YCSO
Bob Kavanaugh
Joe Cappelli, NARTA
Jeff Gilbert, Colorado River Indian Tribes P.D.
Roy Richardson, Colorado River Indian Tribes P.D.
John Brewer, Gilbert P.D.
Mike Bailey, Mesa P.D.
Mike Storie, AZ COPS
Pio Alhumada
Jim Bloomfield
Don Allan
Kathy Allan
Donna McDaniel, Bihn & McDaniel
Rosina Ford, NLETA Representative

A. CALL TO ORDER

Chairman Garcia called the meeting to order at 1:30 p.m.

B. INTRODUCTIONS

Executive Director Hammarstrom introduced Robert Forry, Compliance Administrator. Mr. Forry is in charge of the Compliance Section.

C. CONSENT AGENDA

Approved unanimously, motion made by Sheriff Butler, seconded by Chief Vernier.

1. Minutes of the Regular Board meeting, held on March 17, 2004, were approved as written.
2. Minutes of the Charging Board meeting held on March 17, 2004, were approved as written.

3. The next scheduled Regular Board meeting is Wednesday, July 14, 2004, 1:30 p.m. at Little America Hotel, located at 2515 E. Butler Avenue, Flagstaff, AZ.
4. Ministerial Actions:
 - a. Certification Waivers: The following individual(s) have met the requirements set forth in AZ POST Rule R13-4-110 and have successfully completed the testing process and verification by AZ POST staff. Therefore, upon Board direction, certified peace officer status has been granted to:

Douglas A. Blake	Surprise P.D.
Terry W. Blevins	Gila County S.O.
John C. Boylan	Maricopa Community College
Oran R. Cookemboo	Paradise Valley P.D.
Christopher J. DeLoria	Coconino County S.O.
Robert F. McGowan	Gila River P.D.
Jimmie R. Nation	Parker P.D.
Donald L. Warnock	Yuma P.D.
 - b. Instructor Certification Renewals: LIST ATTACHED TO MINUTES
 - c. Training Program Confirmations: Agency requests were reviewed by staff and found to comply with Board guidelines. Programs were confirmed as requested. LIST ATTACHED TO MINUTES.
5. Decertification Case Status Report Update – As of April 28, 2004, the Compliance and Standards Unit has a caseload of 112 active cases in various stages of the process. Seven cases are ready for initial presentation; 21 cases require further investigation; 8 cases are pending service of or response to, a Notice of Complaint or Decision; 5 cases are pending hearing; 20 cases are ready for final action; 1 case requests reconsideration of Board decision; 2 cases are agency petitions for experimentation; and 49 cases are waiting for outside activity, i.e., a criminal trial or civil service hearing.
6. Income and Expense Statement – March 2004

Funds as of March 1, 2004	\$ 1,388,547.22
CJEF Revenue	508,524.65
Expenditures/Encumbrances	(487,213.84)
Balance for March 31, 2004	\$ 1,409,858.03

D. REGULAR AGENDA

1. Proposed 2004/2005 Fiscal Year Budget. Executive Director Hammarstrom and Sheriff Gary Butler, Chairman of the POST Finance Advisory Group, reported that the Finance Advisory Group met on April 21, 2004, and reviewed the 2004/2005 budget in its entirety. The Advisory Group voted unanimously to recommend the Board adopt the proposed budget. The only change to the proposed budget is the carry-over will be higher than anticipated.

Sheriff Butler made a motion to adopt the proposed 2004/2005 AZ POST budget, seconded by Chief Sheridan, motion carried unanimously.

2. Permanency of Revocations. The question was raised at a previous meeting whether it is good policy to permanently prohibit a person from regaining certification following a revocation. The Board is currently empowered to take a license fully without making it permanent. There is also an avenue for a revoked licensee to make application for a new license. After discussion by the Board, it was determined to leave the rules as they are.

Assistant Director Covey made a motion to leave the rules as they are with respect to permanency of revocation, seconded by Deputy Villar, motion carried unanimously.

3. Petition of the AZ POST Drug Experimentation Rule by the Colorado River Indian Tribal Police Department for Applicant Troy H. Richardson. The Colorado River Indian Tribal Police Department has petitioned the Board for a determination that the cocaine usage by Troy H. Richardson was experimental. Mr. Richardson, age 34, admits to using cocaine two times in his life, once in 1991 at age 21, and once in 1992 at age 22. In addition to cocaine, Mr. Richardson used marijuana less than six times, with the last use in 1998. Mr. Richardson's use of marijuana is within the Board's presumption of experimentation, however, his two uses of cocaine are also within the Board's presumption of five lifetime uses, but exceeds the Board's presumption of experimentation by one use after 21 years of age.

Chief Sheridan made a motion to grant the petition for a determination that the pre-employment marijuana usage by Troy H. Richardson was experimental, seconded by Chief Vernier, motion carried with two nay votes.

4. Petition of the AZ POST Drug Experimentation Rule by the White Mountain Apache Police Department for Applicant Theodore C. Shaw. The White Mountain Apache Police Department has petitioned the Board to determine that the drug usage by Mr. Theodore Shaw was experimental. Mr. Shaw, age 37, on his application and confirmed by polygraph, admits that he used cocaine on two separate occasions in 1996, when he was 29 years of age. He also admits that he used marijuana two times in his life with each use occurring before the age of 21. Regarding the use of cocaine, Mr. Shaw exceeds the presumptive amount by one use as the rule applies to experimentation after the age of 21. Mr. Shaw's use of marijuana on two occasions in his lifetime is within the minimum qualifications under R13-4-105A.11 and R13-4-105B.1.

Dr. Polakowski made a motion to table this issue and have the file worked up with regard to domestic violence and kidnapping issues mentioned in the polygraph report, seconded by Chief Sheridan, motion carried unanimously.

5. Approval of the 2004 ADC Continuing Training Courses Including Firearms. The Arizona Department of Corrections has submitted for review 25 Continuing Training Lesson Plans as required by AZ POST Rule 13-4-206. Staff believes that the Lesson Plans as submitted meet the requirements set forth in AZ POST Rule R13-4-206(A) through (E) and R13-4-205(C).

Chief Vernier made a motion to approve the 2004 Continuing Training Lesson Plans as presented by the Arizona Department of Corrections, seconded by Deputy Villar, motion carried unanimously.

E. LEGISLATIVE UPDATE

No report.

F. SUMMARY OF CURRENT EVENTS

At the March meeting, the Board approved negotiations with DPS for the purchase of a three-station driver training simulator to be located in Phoenix, for the use of DPS and the Arizona law enforcement community. The Board provided funding for two stations, and State Risk Management provided funding for the third station. Staff is actively looking for opportunities to expand the implementation of the driver simulator program. Two additional driver simulators have been ordered under the direction and authority provided previously by the Board. The simulators will be

on a trailer towed by a truck. Partnerships are being sought with the insurance pools to staff the truck and make it available statewide. POST staff is in discussion with the cities of Flagstaff and Yuma to place individual driver simulators in those locations to be made available for law enforcement agencies in the area.

Executive Director Hammarstrom introduced Sgt. Crista Capp, POST Coordinator for the Federal Law Enforcement Training Center, to present an update of the partnership of the Federal Law Enforcement Training Center distributed learning program. Sgt. Capp reported that the program went on-line May 1st, with 57 agencies and 748 officers taking part in the program. Out of those 748 students, 169 have begun taking classes, and have signed up for over 790 classes. There are approximately 300 hours of available training in the law enforcement and security sections, which have been approved for continuing education hours. There are also hundreds of hours of training in the other sections of the site, including classes in leadership and management.

Executive Director Hammarstrom congratulated Sgt. Capp on the outstanding job she has done with this program.

G. REPORTS

1. Basic Training

Academy commanders from CARLOTA, NARTA, NLETA and Mesa reported on the status of their respective graduating classes.

2. Police Corps

Mr. Ed Cibbarelli, representing Director Jon Heiden, reported that the budget for Police Corps has been extended through January 2005, and he is confident it will be extended through October. On June 28th through November 12th, Police Corps will be sending nine individuals to the Regional Academy, seven of which have been sponsored by law enforcement agencies.

3. Department of Corrections

No report.

4. Arizona Regional Community Policing Institute

Executive Director Rich Kush reported that so far this year AZRCPI has presented 21 8-hour anti-terrorism classes for officers, with a total of 46 classes scheduled for this year. At present, a total of 1100 officers have been through the anti-terrorism training, totaling 2,248 officers since the training began 10 months ago. AZRCPI staff has presented five 2-hour community classes, training approximately 200 people in various communities. In addition, they have completed 18 domestic violence classes, 8 ethics classes, and a 3-day leadership development class and town hall.

G. CASES: Consideration and possible action on the certified status of peace officers.

Case #1 – Pio M. Ahumada – Nogales Police Department. The Board considered comments from Assistant A.G. Diana Stabler, Mr. Michael Storie, attorney for Mr. Ahumada, and Mr. and Mrs. Ahumada. *Chairman Garcia recused himself from voting and participation.* Sgt. Eisenga made a motion to adopt the Consent Agreement, Order and Decision, modifying the suspension of certification to August 31, 2003 to August 31, 2004 – from March 17, 2003 to March 16, 2004, seconded by Chief Sheridan, motion carried with one nay vote.

Chairman Garcia called for a recess at 3:10 p.m. Meeting was convened at 3:17 p.m.

Case #2 – James M. Bloomfield – Oro Valley Police Department – The Board considered comments from Assistant A.G. Diana Stabler, Michael Storie, attorney for Mr. Bloomfield, and Mr. Bloomfield. Dr. Polakowski made a motion to reject the Consent Agreement, Order and Decision and dismiss the complaint, seconded by Deputy Villar, motion carried unanimously.

Case #3 – Ronald E. Carbajal – Arizona Department of Transportation – MVD – The Board considered comments from Assistant A. G. Diana Stabler. Chief Sheridan made a motion to waive the 30-day rule and grant a hearing to Mr. Carbajal, seconded by Deputy Villar, motion carried unanimously.

Case #4 – Netty A. Etsitty – Navajo Division of Public Safety – The Board considered comments from Assistant A. G. Diana Stabler and Ms. Etsitty. Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision, modifying the suspension of certification to July 8, 2002 to July 8, 2003, seconded by Deputy Villar, motion carried unanimously.

Case #5 – Timothy R. Goodwin – Arizona Department of Public Safety. *Assistant Director Covey recused himself from voting and participation.* Dr. Polakowski made a motion to adopt the Consent Agreement, Order and Decision (voluntary relinquishment of certification), seconded by Ms. Flores, motion carried unanimously.

Case #6 – Ryan P. Granville – Scottsdale Police Department. Ms. Flores made a motion to adopt the Findings of Facts and Conclusions of Law and suspend peace officer certification from January 21, 2003 to January 21, 2004, seconded by Deputy Villar. Ms. Flores amended her motion to suspend peace officer certification from March 1, 2003 to March 1, 2004, seconded by Deputy Villar, motion carried unanimously.

Case #7 – Santos C. Hernandez – El Mirage Police Department. Chief Vernier made a motion to adopt the Findings of Fact and Conclusions of Law and revoke certification, seconded by Ms. Flores, motion carried unanimously.

Case #8 – Anthony J. Maniscalco – Phoenix Police Department. The Board considered comments from Assistant A. G. Diana Stabler. Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision (suspension of certification from September 19, 2003 to March 19, 2004), seconded by Sgt. Eisenga, motion carried with one nay vote.

Case #9 – Michael L. Reynolds – Avondale Police Department. The Board considered comments from Assistant A. G. Diana Stabler, Ms. Donna McDaniel, attorney for Mr. Reynolds, and Mr. Reynolds. Ms. Flores made a motion to revoke peace officer certification, seconded by Sheriff Butler, motion carried unanimously.

Case #10 – Michael T. Snider – Flagstaff Police Department. Chief Vernier made a motion to adopt the Findings of Fact and Conclusions of Law and deny certification, seconded by Chief Sheridan, motion carried unanimously.

Case #11 – Justin M. Spears – Quechan Tribal Police Department. Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and deny certification, seconded by Sheriff Butler, motion carried unanimously.

Case #12 – Larrison Tsosie – Navajo Division of Public Safety. Dr. Polakowski made a motion to adopt the Findings of Fact and Conclusions of Law and deny certification, seconded by Deputy Villar, motion carried unanimously.

Case #13 – Michael A. Wetherell – Phoenix Police Department. Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law and suspend peace officer certification from May 19, 2004 to May 19, 2005, seconded by Chief Vernier, motion carried unanimously.

I. CALL TO THE PUBLIC

None received.

J. ADJOURN

Chairman Garcia adjourned the meeting at 4:27 p.m.

Dated May 25, 2004

Lois Sherlock, Recording Secretary